IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Urgency Application No. 6460 of 2005

In

Civil Contempt Petition No. 131 of 2005

Veer Singh S/o Sri Budh Singh
R/o Village Shahpur Shitlakhera,
District Haridwar.

…….. Petitioner

Versus

Mr. R.K. Sudhanshu
Zila Adhikari / Collector,
Haridwar ……. Respondent

Mr. M.C. Bansal, learned counsel for the petitioner.
Mr. R.C. Arya, learned Standing Counsel for respondent.

Hon'ble P.C. Pant, J.

This is an application for early hearing of contempt petition No. 131 of 2005.

2) Heard learned counsel for the parties on the contempt petition itself.

3) This petition has arisen out of the order dated 09.05.2005 passed in writ petition No. 281 (M/S) of 2005, whereby the order dated 15.03.2005 passed by the District Magistrate, Haridwar was stayed. Copy of the order dated 15.03.2005 is annexed as Annexure –1 to the petition, which shows that there were certain complaints against the petitioner Pradhan of the village Shahpur Shitlakhera, Block, Bahadarabad, District Haridwar. After enquiry, the

District Magistrate, Haridwar exercising his powers, under Section 95(1) of the U.P. Panchayati Raj Act, 1947 removed the petitioner from the post and directed that recovery of the embezzled sum be made from him. It is further directed that departmental enquiry be also initiated against the guilty officials. The said order was challenged in aforesaid writ petition and the interim stay order was passed on 09.05.2005 (copy Annexure –2 to the petition). In consequence whereof, the District Magistrate has directed vide his order dated 28.05.2005 that no recovery shall be made from the petitioner in view of the stay order, nor any departmental enquiry shall be initiated, but the order as to discharge the function of Gram Panchayat by Up Pradhan is concerned, the District Magistrate has observed that since that part has already been executed, before the stay order was granted by the Court, as such, the Up Pradhan would continue to discharge functions.

4) Learned counsel for the petitioner submits that the observation of the District Magistrate to the effect that the Up Pradhan would continue to discharge the functions is in violation of the order passed by this Court on 09.05.2005. In reply to this, learned counsel for the respondent submits that there was no direction from the Court to undo, which has already been done in pursuance of the order dated 15th March, 2005. In view of said fact, it is submitted that the respondent has not committed any contempt. This court has to examine wilful disobedience on the part of the contemnor. The counter affidavit filed by the respondent shows that he passed the order dated 28.05.2005 after

consulting the District Government Counsel (Civil) and after considering the same as he received the opinion that whatever has already been done need not to be undone, he passed the order dated 28.05.2005.

5) In the circumstances, it cannot be said that the District Magistrate committed wilful disobedience of the Court's order. Accordingly, the contempt petition is dismissed with the observation that the petitioner may seek further orders in the main petition in the matter to restore the powers of the petitioner as Pradhan. The notices issued to the respondent are discharged. The urgency application also stands disposed of, accordingly.

(Prafulla C. Pant, J.)

Dt. 1st September, 2005

H. Negi